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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 MINGAN F. TORRISI,

9 Plaintiff,

Case No. C17-1295-RSL-JPD

10 v.

REPORT AND RECOMMENDATION

11 KING COUNTY CORRECTIONAL
12 FACILITY BOOKING OFFICER # 77874,

13 Defendant.

14 On August 25, 2017, plaintiff submitted to this Court for filing a civil rights complaint
15 under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma*
16 *pauperis*. (See Dkt. 1.) Plaintiff asserted in his complaint that the defendant in this action, a
17 booking officer at the King County Correctional Facility, refused to book plaintiff into the jail
18 under his legal name, Mingan Fujimura Torrisi, and instead booked plaintiff under the name
19 Terrail Kyle Elliot. (See Dkt. 4 at 3) Plaintiff requested monetary damages and an order
20 directing that he be re-booked under the proper name. (*Id.* at 4.)

21 On September 21, 2017, the Court issued an Order granting plaintiff's application to
22 proceed *in forma pauperis* and his complaint was filed. (Dkts. 3 and 4.) On the same date, this
23 Court issued an Order directing plaintiff to show cause why this action should not be dismissed

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1 under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted
2 because plaintiff did not allege in his complaint any violation of a federally protected right, and
3 because the facts set forth in the complaint did not implicate federal constitutional concerns.
4 (Dkt. 5.) The Court explained in its Order to Show Cause that in order to sustain an action under
5 § 1983, a plaintiff must show that he suffered a violation of rights protected by the Constitution
6 or created by federal statute. (*See id.* at 1, citing *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th
7 Cir. 1991). Plaintiff was granted thirty days within which to file a response to the Order to Show
8 Cause but, to date, he has filed no such response.

9 When a complaint is frivolous, malicious, fails to state a claim upon which relief may be
10 granted, or seeks monetary relief against a defendant who is immune from such relief, the Court
11 may dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C.
12 § 1915(e)(2)(B). Because plaintiff failed to allege in his complaint any claim upon which relief
13 may be granted in this civil rights action, and because he failed to respond in any fashion to the
14 Order to Show Cause, this Court recommends that plaintiff's complaint and this action be
15 dismissed, with prejudice, pursuant to § 1915(e)(2)(B)(ii). A proposed order accompanies this
16 Report and Recommendation.

17 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
18 served upon all parties to this suit by no later than **December 4, 2017**. Failure to file objections
19 within the specified time may affect your right to appeal. Objections should be noted for
20 consideration on the District Judge's motion calendar for the third Friday after they are filed.
21 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no
22 timely objections are filed, the matter will be ready for consideration by the District Judge on
23 **December 8, 2017**.

This Report and Recommendation is not an appealable order. Thus, a notice of appeal seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the assigned District Judge acts on this Report and Recommendation.

DATED this 13th day of November, 2017.

James P. Donohue
 JAMES P. DONOHUE
 Chief United States Magistrate Judge